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ment was rendered and the motions disposed of, and when the return to the writ was made defendant moved to quash. Held that, while the attachment was issued in a pending suit, and was returnable to a term of the court in which the same was pending as provided by Code 1904, § 2965, yet attachment must be quashed, being a mere incident to the main suit, the determination of which precludes any ancillary proceedings.

[Ed. Note.—For other cases, see Attachment, Cent. Dig. §§ 956-958; Dec. Dig. § 269.* 2 Va.-W. Va. Enc. Dig. 118.]

Error to Circuit Court of City of Norfolk.

Action by C. M. Kaylor against the Davy Pocahontas Coal Company, in which attachments were issued. There was a judgment for plaintiff, and, an attachment being quashed, plaintiff brings error. Affirmed.

Mann & Tyler, of Norfolk, for plaintiff in error.

Loyall, Taylor & White and *N. T. Green*, all of Norfolk, for defendant in error.

ROBINSON *v.* COMMONWEALTH.

Jan. 13, 1916.

[87 S. E. 553.]

1. Intoxicating Liquors (§ 200*)—Offenses—Warrant.—The warrant in prosecution for the unlawful sale of intoxicating liquors cannot be made a blanket for all future offenses within its purview.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. §§ 219, 220; Dec. Dig. § 200.* 8 Va.-W. Va. Enc. Dig. 22.]

2. Intoxicating Liquors (§ 200*)—Unlawful Sale—Warrant—Offenses.—Where a warrant was issued for the sale of intoxicating liquor on the morning of a certain day, and before it was served accused on the same day made a second unlawful sale, whereupon the warrant was served and he was arrested, the accused might be tried under the warrant for the later offense, since it charged a sale on that day and was notice of all sales on that day, especially in view of the powers of the trial court under Code 1904, § 4107, on appeal from a justice of peace, either to amend the old warrant or to issue a bench warrant.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. §§ 219; 220; Dec. Dig. § 200.* 8 Va.-W. Va. Enc. Dig. 23.]

3. Criminal Law (§ 758*)—Trial—Instructions—Province of Jury—Weight of Evidence.—In a prosecution for the unlawful sale of intoxicating liquors, where it appeared that a police officer, learning that a certain person had bought liquor from the defendant, swore out a warrant, and to corroborate such person sent him with marked

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

money to purchase more liquor from the defendant, in order to conclusively establish the offense, his credibility was for the jury; and an instruction that the testimony of a detective, or one acting as such should be considered with more than ordinary caution was properly refused.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 1786-1789; Dec. Dig. § 758.* 7 Va.-W. Va. Enc. Dig. 730.]

4. Criminal Law (§ 814*)—Trial—Issues—Presumption of Good Character.—In a prosecution for the unlawful sale of intoxicating liquor, the character of the defendant was not in issue unless put in issue by him, so that an instruction that, in the absence of any evidence as to his character, he was presumed to be a man of good character was properly refused.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. §§ 1821, 1833, 1839, 1860, 1865, 1883, 1890, 1924, 1979-1985, 1987; Dec. Dig. § 814.* 7 Va.-W. Va. Enc. Dig. 720.]

Error to Corporation Court of Danville.

Lewis Robinson was convicted of unlawfully selling ardent spirits, and he brings error. Affirmed.

B. H. Custer and Harry Wooding, Jr., both of Danville, for plaintiff in error.

The Attorney General, for the Commonwealth.

POSTAL TELEGRAPH-CABLE CO. OF NORFOLK, Inc. *v.*
CITY OF NORFOLK.

Jan. 13, 1916.

[87 S. E. 555.]

1. Licenses (§ 5½*)—License Taxes—Validity.—Under Const. § 170, providing for the levy of license taxes upon any business which cannot be reached by the ad valorem system, partially graduated license taxes may be imposed as revenue measures by a city on the business of sending and receiving telegrams, though the tax could not be upheld as an inspection or police tax.

[Ed. Note.—For other cases, see Licenses, Dec. Dig. § 5½.* 9 Va.-W. Va. Enc. Dig. 308.]

2. Licenses (§ 7*)—Validity—Double Taxation.—Though the properties of a telegraph company have been subjected to an ad valorem tax, the imposition of a license tax for revenue upon the business of sending telegrams is not invalid as subjecting the property to double taxation.

[Ed. Note.—For other cases, see Licenses, Cent. Dig. §§ 7-15, 19; Dec. Dig. § 7.* 9 Va.-W. Va. Enc. Dig. 322]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.